

KENTUCKY DEPARTMENT OF EDUCATION

STAFF NOTE

Review Item:

702 KAR 4:160, Capital Construction Process

Applicable Statute or Regulation:

KRS 156.070	KRS 162.065	KRS 371.400
KRS 156.160	KRS 162.070	KRS 371.405
KRS 157.420	KRS 322.360	KRS 371.410
KRS 160.160	KRS 323.033	

History/Background:

Existing Policy. KRS 156.160 requires the Kentucky Board of Education (KBE) to promulgate administrative regulations establishing standards that school districts shall meet in operational performance, including construction of public school buildings and the use of uniform forms.

In 1994, KBE by regulation adopted the American Institute of Architects (AIA) design and construction industry documents, which originated in 1888, are updated periodically, and have served to provide school districts, their design consultants and contractors, and the Department of Education with a comprehensive set of uniform construction documents.

Policy Issues:

At issue is the continuation of the adoption of and amendments to the 2009 and 2010 AIA documents as uniform construction forms, incorporation of the recommendations of the State Auditor and School Facilities Task Force, and the incorporation of the provisions of the Kentucky Fairness in Construction Act.

702 KAR 4:160 (attached) prescribes procedures and criteria for the construction of public school buildings, and adopts and incorporates many AIA documents. About every 10 years AIA updates some of their documents. In 2009, AIA revised the Construction Manager as Adviser family of documents, regarding the relationships between the Owner-Construction Manager and the Owner-Architect.

One purpose of the proposed amendments to 702 KAR 4:160 is to adopt the following documents related to construction management to replace the old version:

- AIA A132-2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

- AIA A232-2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition
- AIA B132-2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition
- AIA C132-2009, Standard Form of Agreement Between Owner and Construction Manager as Adviser
- AIA G732-2009, Application and Certificate for Payment, Construction Manager as Adviser Edition
- AIA G736-2009, Project Application and Project Certification for Payment, Construction Manager as Adviser Edition
- AIA G737-2009, Summary of Contractors' Applications for Payment, Construction Manager as Adviser Edition.

A second purpose of the proposed amendment to 702 KAR 4:160 is to adopt the following documents related to construction management and general construction:

- AIA A310-2010, Bid Bond
- AIA A312-2010, Performance Bond and Payment Bond

Finally, there are some technical changes needed to coordinate language to reflect new statutes, especially KRS 371.410, the Kentucky Fairness and Construction Act.

This regulation is brought to the board for review and will come back to the October meeting for final approval.

Impact on Getting to Proficiency:

Consistent construction documents facilitate the development of good school buildings. In Standard 4 of the Standards and Indicators for School Improvement, it is noted that the school's physical environment has an impact on student achievement. Research also indicates that better facilities enhance equity (equal opportunities for all students), attitudes and retention of staff, and parental involvement.

Groups Consulted and Brief Summary of Responses:

The Local Superintendents Advisory Council will review the regulation at its next meeting and provide input to the board.

Contact Person:

Hiren Desai, Associate Commissioner
Office of Administration and Support
502/564-1979
Hiren.Desai@education.ky.gov

Kay Kennedy, Director
Division of District Support
502/ 564-5279
Kay.Kennedy@education.ky.gov

Commissioner of Education

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